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PART III.

Legislative Measures and Rules thereunder.

NOTIFICATION.

No. 193—*L. C.* 7-07, *dated 4th November* 1907.

Under Rule 40 of the rules for the conduct of business of the Mysore Legislative Council, the following report of the Select Committee on the Bill to consolidate and amend the Law relating to Village Offices in Mysore, and the Bill as amended by the Committee are published for general information.

By Order,
K. MYLAR RAO,
Secy., Mysore Legislative Council.

Report of the Select Committee appointed for the consideration of the Village Offices Bill.

We, the Members of the Select Committee appointed for the consideration of the Village Offices Bill, beg to submit the following report :—

2. Upon a consideration and discussion of the several provisions of the Bill clause by clause among ourselves, and upon a consideration also of the various representations relating to the Bill, received by the Secretary in response to the publication of the Bill in the Gazette, we have considered it expedient to recommend the amendments which have been introduced into the copy of the draft herewith annexed, in which the numbering of the clauses has also been altered to the necessary extent. The principal amendments proposed together with the reasons for the same are noted here below.

3. *Clause 1, sub-clause (2)*—As the Government may, in certain cases, consider it expedient to exclude any particular area from the operation of the Regulation, power has been reserved to them for the purpose by the addition of a proviso.

4. *Clause 1, sub-clause (3)*—The date from which the Regulation is to come into force has been altered, as we think it desirable that Government should fix it by notification rather than that it should be determined by the public with reference to the date of publication of the Regulation.

5. *Clause 2.*—The original Bill contains no clause repealing the existing rules and orders and saving titles already acquired. We have therefore added one and marked it clause 2.

6. *Clause 3—(Clause 15 of the original Bill).*—Clause 15 of the original Bill provides for the disposal of suits pending at the commencement of this Regulation. This has been transposed next to clause 2, as being its proper place and marked clause 3.

7. *Clause 4—(Clause 2 of the original Bill).*—The definition of "emoluments" given in the original Bill is the same as that contained in Madras Act III of 1895, but contains a misprint. This has been corrected so that the qualification "granted or continued in respect of or annexed to any village office by Government," would apply to the four classes of emoluments previously specified. The word "Government" has been substituted for the word "State" as being the term used throughout the Regulation.

8. The words "District Deputy Commissioner" and "Deputy Commissioner" being confusing, the familiar terms "Deputy Commissioner" and "Assistant Commissioner" have been substituted for them, respectively, throughout the Bill. In some places, where such a provision is necessary, both the terms "Deputy Commissioner" and "Assistant Commissioner" have been adopted to cover the cases in which the Deputy Commissioner has one or more taluks under his own and direct charge. The definition of "Assistant Commissioner" has been amended so as to include any Assistant Commissioner to whom cases under this Regulation may be transferred for disposal.

9. *Clause 5—(Clause 3 of the original Bill).*—The word "partitioned" has been added after the word "transferred" as the emoluments of village officers may not be reckoned among family properties and form the subject of partition.

10. *Clause 6, sub-clause (1)—(Clause 4, sub-clause (1) of the original Bill).*—This sub-clause in the original Bill makes all the village offices concerned cease to exist on the grouping, amalgamation or division of villages. The villages may be grouped, amalgamated or divided in respect of *certain* village offices only. We have therefore amended this sub-clause so as to empower Government to direct what particular village offices shall cease to exist and what particular ones shall be created.

11. *Clause 6, sub-clause (2)—(Clause 4, sub-clause (2) of the original Bill).*—To remove all doubt as to whether the last holders may not be selected, a small alteration has been made in the wording of the sub-clause.

12. *Clause 6, sub-clause (3)—(Clause 4, sub-clause (3) of the original Bill).*—In the original Bill, provision is made only for the reduction of village offices but not for the reduction of the number of persons holding a village office, or for the increase in the number of village offices or officers. These omissions have been supplied by suitable amendments.

13. *Clause 7, sub-clause (1)—(Clause 5, sub-clause (1) of the original Bill).*—As the power to dismiss or to remove a village officer is an important one, we have provided that when exercised by an Assistant Commissioner, his order should be subject to the confirmation of the Deputy Commissioner. Further, the original Bill contains no provisions for depriving the heirs of a dismissed holder of the hak, as is now often done where the dismissal has been for a heinous offence. To remedy this, a new clause has been added.

14. *Clause 7, sub-clause (2)—(Clause 5, sub-clause (2) of the original Bill).*—We are of opinion that it is absolutely necessary that an Amildar or Deputy Amildar should have the power of fining the patel, shanbhog, toti and talari of an alienated village to enable him to exercise some control over them, and have accordingly provided for the same. Such control is found necessary particularly in Police and Sanitary matters.

15. *Clause 7, sub-clause (3)—(Clause 5, sub-clause (3) of the original Bill).*—The words "proprietor" and "village watchman" have been replaced by the words "holder" and "toti and talari" respectively wherever they occur in the Bill, as the latter are the terms used in the Land Revenue Code and the other parts of this Regulation.

It seems to us desirable to empower the holder of an alienated village to fine the patel, shanbhog, toti and talari thereof, as he will otherwise have no control over them, and further to reserve power to Government to invest him with the higher powers of suspension, removal or dismissal, if he is found fit to exercise them. We have accordingly amended the clause so as to provide for this.

16. *Clause 7, sub-clause (4)—(Clause 5, Sub-clause (4) of the original bill).*—As village officers are sometimes punished on mere complaints or reports and without proper enquiry, we consider it necessary that the authority taking proceedings against them should hold an enquiry himself. We further think that any order punishing a village officer passed by the holder of an alienated village should at once be communicated to the local Amildar.

17. *Clause 8, sub-clause (1)—(Clause 6, sub-clause (1), of the original Bill.*—The age of majority has been specified as eighteen years completed.

Though sex is ordinarily a factor to be taken into consideration, the minor village offices such as nirganti, toti, and talari are sometimes filled by women with fair efficiency and to the entire satisfaction of all concerned. We have therefore proposed to reserve to the Deputy Commissioner the power to appoint females in exceptional cases.

18. *Clause 8, sub-clause (2)—(Clause 6, sub-clause (2), of the original Bill.*—The succession to the office has been made to be regulated in general terms by the "law applicable to the last holder" so as to cover cases in which the last holder is other than a Hindu to whom the Hindu Law may not be applicable. A further proviso has been added to this sub-clause so as to allow of the eligibility of persons recognised as joint holders of an office being considered along with that of heirs of the last holder on the occurrence of a vacancy.

19. *Clause 8, sub-clause (4)—(Clause 6, sub-clause (4), of the original Bill.*—The sub-clause in the original Bill gives a wide discretion to the Deputy Commissioner or Assistant Commissioner, in the exercise of which it is just possible that he may choose from outside the family and may overlook the rights of the members of the divided family. We have accordingly provided that preference should be given to the *nearer members* of the family, as far as possible.

20. The word "heir" used in clause 6, sub-clause (5), of the original Bill does not indicate clearly to whom the succession is to be traced. It has been replaced by the word "successor."

21. Sub-clause (6) of clause 6 of the original Bill being superfluous, has been omitted.

22. *Clause 8, sub-clauses (5) and (6).*—When the last holder of an office has died, leaving a widow without male issue, and also when the person succeeding to a vacancy is a minor, it may be a very great hardship, if a portion of the emoluments of the office be not made available for the widow's or the minor's maintenance. We have therefore considered it fit that the Deputy Commissioner should be empowered to direct that a portion of the emoluments not exceeding 25 per cent in the case of a widow and not exceeding 50 per cent in the case of a minor, be so paid, and also to revise such order whenever found fit or necessary.

23. *Clause 9—(Clause 7 of the original Bill).*—We see no reason why there should be any difference between alienated and unalienated villages in regard to the qualifications required for the five classes of village offices. According to the Bill, the right of appointment vests in the holder of the alienated village, but we are of opinion that the appointment should be subject to confirmation by the Deputy Commissioner or Assistant Commissioner. We further think that in case the holder of the village fails to fill up a vacancy within a reasonable time, the Deputy Commissioner or Assistant Commissioner should have the power to make the appointment. The clause has been amended accordingly.

24. *Clause 11, sub-clause (2)—(Clause 9, sub-clause (2), of the original Bill).*—It seems to us that the words "for any office or for the recovery of the emoluments of the office" are unnecessary, because even a minor may be ineligible under clause 8, sub-clause (1), paras (*e*) and (*f*). They have therefore been omitted.

25. *Clause 12—(Clause 11).*—The transfer of a case by the Deputy Commissioner from his own file has not been provided for in the original Bill. This has been rectified.

26. *Clause 13—(Clause 12).*—We are of opinion that the procedure prescribed for formal enquiries under the Land Revenue Code may conveniently be followed in regard to suits filed under this Regulation subject to such rules as may be framed under clause 23. Clause 12 of the original Bill has accordingly been amended.

27. *Clause 15—(Clause 16 of the original Bill).*—The proviso in clause 16 of the original Bill is framed on the analogy of the procedure in British India. It is not suited to the system obtaining in Mysore and has therefore been omitted.

28. *Clause 16—(Clause 17).*—We think that the order passed by a Deputy Commissioner or Assistant Commissioner confirming the appointment made by the holder of an alienated village, should be open to appeal. We have therefore added an explanation to this clause.

29. *Clause 18—(Clause 14 of the original Bill).*—This is clause 14 of the original Bill. It has been transposed and brought here as being its proper place. The clause in the original Bill, though copied from the Civil Procedure Code, has omitted the words "in which the decree is final," and "with its own opinion on the point," occurring in section 617 of the Code. These have been added in their proper places. We also think that the term "Revenue Commissioner" should be substituted for the words "Chief Controlling Revenue authority" occurring in this and other parts of the Regulation to suit present conditions.

30. *Clauses 19 and 20.*—Two new clauses 19 and 20 relating to power to call for records of cases, and applications for review based on sections 622 and 623, Civil Procedure Code, have been added.

31. *Clause 21—(Clause 10 of the original Bill).*—We think that the several provisions contained in the original Bill regarding limitation for suits, appeals and applications, may, with advantage, be relegated to a schedule to be appended to the Regulation. We have accordingly omitted clause 10 of the original Bill and framed a new clause 21, directing the dismissal of suits, etc., instituted after the period of limitation, and we have attached a schedule prescribing periods of limitation for the several cases.

32. Clause 20 of the original Bill has been omitted, as provision has been made in this behalf in the Police Bill now before the Legislative Council.

33. The original Bill contains no provision to enforce the prohibition against alienations, etc., made in clause 5, and that clause itself, if taken absolutely, would be inconsistent with some of the provisions of the Potgi rules. Hence a new clause has been added reserving to Government the power to frame rules to regulate the action to be taken in case of such alienations.

34. The other amendments that have been made are trivial or incidental to those noted above.

35. In conclusion, we have the honor to recommend that the Bill as amended by us be passed into law.

M. KANTHARAJ URS, (*Chairman.*)
A. RANGASWAMI IYENGAR.
V. N. NARASIMMIYENGAR.
M. C. RANGIENGAR.
T. ANANDA RAO.

2nd November 1907.

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Note.—The portions within heavy brackets are the deleted portions of the original bill and those in italics are newly inserted.

THE VILLAGE OFFICES BILL.

A bill to consolidate and amend the Law relating to Village Offices in Mysore.

(Bill as revised by the Select Committee.)

Preamble. Whereas it is expedient to consolidate and amend the law relating to village offices in Mysore: His Highness the Maharaja is pleased to enact as follows:—

Short title, extent and commencement. 1. (1) This Regulation may be called the Mysore Village Offices Regulation, 190 .

(2) It extends to the whole of Mysore, [and] *provided that Government may by notification in the official Gazette exclude any local area from its operation and may amend or cancel such notification.*

(3) It shall come into force [with effect] from [the expiry of one month from the] *such* date [of its first publication in the official Gazette] *as may be notified by Government.*

2. On and after that date, all existing rules and orders relating to village offices shall be repealed; provided that nothing herein contained shall be deemed to affect any right acquired or to revive any right that has ceased to exist, or to affect any act done or liabilities incurred under the said rules and orders.

3. All suits, appeals and applications pending at the commencement of this Regulation shall be heard and disposed of as if they had been preferred under this Regulation.

Definitions. [2.] *4.* In this Regulation, unless there is something repugnant in the subject or context,—

'Village." "Village" means any local area now recognised as a village or hereafter declared by Government to be a village.

"Village Office." "Village Office" means every office to which emoluments have been attached and which is held for the performance of duties connected with the administration or collection of the revenue, or with the maintenance of order or with the settlement of boundaries, or other matters of civil administration pertaining to a village, whether the services originally appertaining to the office continue or have ceased to be performed or demanded, and by whatsoever designation the office may be locally known:

Provisos. Provided as follows:—

(1) The Government may, by notification in the official Gazette, exclude any village office or offices from the operation of all or any of the provisions of this Regulation, and may in like manner amend or cancel such notification.

(2) The Government shall have power to decide, in case of doubt, whether any office falls under the definition of village office.

"Village Officer." "Village Officer" means an officer holding a village office or appointed to perform or performing the duties of a village officer.

"Emoluments." "Emoluments" means and includes

(i) lands;

(ii) assignments of revenue payable in respect of lands;

(iii) fees in money or agricultural produce;

(iv) money-salaries and all other kinds of remuneration;

granted or continued in respect of, or annexed to, any village office by the [State] *Government.*

"[District] Deputy Commissioner" means the chief local officer in charge of the revenue administration of a district.

[District] "Deputy Commissioner."

"[Deputy] *Assistant* Commissioner" [includes] *means* an Assistant Commissioner in charge of a division [who, for the time being, is authorized to exercise the powers of a Deputy Commissioner] *of a district and includes any other Assistant Commissioner to whom cases under this Regulation have been transferred for disposal.*

"[Deputy] *Assistant* Commissioner."

[3.] *5.* The emoluments of village offices, whether such offices be or be not hereditary, shall not be liable to be transferred, *partitioned*, or encumbered in any manner whatsoever, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Emoluments of village offices inalienable, and not liable to attachment.

[4.] *6.* (1) The Government may, with reference to rules made in this behalf under section [21] *23*, group or amalgamate any two or more villages or portions thereof so as to form a single new village, or divide any village into two or more villages; and, *may also direct that any* [thereupon, all] village office [s] in the villages, portions of villages or villages grouped, amalgamated or divided as aforesaid, shall cease to exist, and *that* new offices shall be created for the new village or villages.

Villages may be grouped, amalgamated or divided.

(2) In choosing persons to fill such new offices, the Deputy Commissioner *or Assistant Commissioner* shall select the persons whom he may consider the best qualified from among [the families of] the last holders of the offices which have ceased to exist *or their families.*

(3) The Government may also direct that the number of village offices attached to a village *or the number of village officers* shall be

Reduction [of] *or increase* of village offices *or village officers.*

(*a*) reduced, and, thereupon, the Deputy Commissioner shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices;

or (b) increased, in which case the Deputy Commissioner or Assistant Commissioner, shall select the best qualified from among the families of the existing officers.

[5.] *7.* (1) The Deputy Commissioner *or Assistant Commissioner* may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any holder of a village office whether in an unalienated or alienated village, for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause, *but any order of dismissal or removal passed by an Assistant Commissioner, shall be subject to the confirmation of the Deputy Commissioner.*

Power to punish village officers.

The Deputy Commissioner may declare, under rules to be framed under Section 23, that the dismissal or removal from office entails forfeiture of the right of succession of all undivided members of the family of the person so dismissed or removed.

(2) An Amildar or Deputy Amildar may, of his own motion or on complaint and after enquiry, fine any holder of a village office in an unalienated village *or the patel, shanbhog, toti and talari of an alienated village* for any of the causes specified in sub-section (1) and in such amount as the Government may, by general or special order, prescribe.

(3) The [proprietor] *holder* of an alienated village may, of his own motion or on complaint and after enquiry, *fine,* suspend, dismiss or remove any holder of a

village office in his village, except the patel, shanbhog, [and the village watchman,] *toti and talari, and may also fine the patel, shanbhog, toti and talari,* for any of the causes specified in sub-section (1).

Provided that the Government may invest the holder with all or any of the powers of an Assistant Commissioner, under clause (1) above.

(4) The officer or person taking [proceedings] *action* against a village officer under any of the preceding sub-sections of this section shall [make a record of his reasons for so doing] *hold the enquiry himself, record his proceedings,* in writing and furnish a copy of [the same] *order* to such village officer. *When such order is passed by the holder of an alienated village, a copy shall also be forwarded at the same time to the Amildar for information and record.*

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.

[6.] *8.* When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an unalienated village, the Deputy Commissioner *or Assistant Commissioner* shall fill up the vacancy in accordance with the provisions of the following sub-sections :—

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

(*a*) is not of the male sex ;

(*b*) has not attained [the age of] majority, *that is, completed 18 years of age* :—

(*c*) is not physically and mentally capable of discharging the duties of the office ;

(*d*) has not qualified according to the educational test, if any, prescribed for the office in question by rules made under section [21] *23.*

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Deputy Commissioner *or Assistant Commissioner,* disqualifies him for holding the office ;

(*f*) [by reason of his bad character or antecedents,] is, in the opinion of the Deputy Commissioner *or Assistant Commissioner,* disqualified for holding the office, *by reason of his bad character, or ante-cedents.*

Provided that in the case of nirganti, toti and talari, the Deputy Commissioner or Assistant Commissioner may, for special reasons, make an exception in favor of females otherwise competent.

Rule of devolution of succession.

(2) The succession shall be regulated by the ordinary provisions of the [Hindu] law *applicable to the last holder*: provided that it shall devolve on a single heir, and that, where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, the preference shall, subject to the provisions of this section, [lie with] *be given to* the eldest member of the eldest branch of such persons,—*and provided further that the claims of persons who had prior to the commencement of this Regulation been recognised as hakdars to the office or their heirs shall be considered subject to such rules as may be made by Government in this behalf.*

In certain cases person other than direct heir may be appointed.

(3) When the next heir is not qualified under sub-section (1), the Deputy Commissioner *or Assistant Commissioner* shall appoint the person next in order of succession [according to seniority of age in the senior branch] who is so qualified, *the eldest member of the eldest branch being preferred* and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).

Temporary disqualification of heir in certain cases.

(4) Where an office has become vacant by the dismissal or suspension of the last holder, the Deputy Commissioner *or Assistant Commissioner* may direct that, until the death or return to duty of such last holder, the duties of the office

shall be performed by some person duly qualified under sub-section (1) who is not an undivided member of the family of the dismissed or suspended officer; *but in making the selection, the directions contained in sub-sections (2) and (3) shall as far as possible be conformed to.*

Provided that, when the officer who has been dismissed dies, or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-sections (2) and (3).

Procedure to be adopted when heir is a minor.

(5) When the person who would otherwise be entitled to succeed to an office is a minor, the Deputy Commissioner or Assistant Commissioner shall register the minor as the [heir] *successor* of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as [heir,] *successor* on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. *It shall be competent to the Deputy Commissioner or Assistant Commissioner to assign to such successor during his minority an allowance not exceeding one half of the emoluments attached to the office.* If the person registered as [heir] *successor* under this sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Deputy Commissioner *or Assistant Commissioner* shall fill up the vacancy [as provided] *in accordance with the provisions contained* in sub-sections (2) and (3).

Method of filling up vacancy caused by resignation, dismissal, removal or suspension.

[(6) If a vacancy is caused by the resignation, dismissal, removal or suspension of the holder of an office and the Deputy Commissioner does not give the direction referred to in sub-section (4), he shall fill up the vacancy in accordance with the provisions of this section as if it had been caused by the death of the said holder; provided that, upon the expiry of the period of suspension of an officer who has been suspended, or if, for any reason, an officer who has been dismissed, removed or suspended, is permitted to resume the office from which he has been dismissed, removed or suspended, the person appointed to fill the vacancy caused by the said suspension, dismissal or removal shall cease to hold the office.]

Provision for widows of Shanbhogs and Patels in certain cases.

(6) When the last holder of the office of Patel or Shanbhog has left a widow without male issue, it shall be competent to the Deputy Commissioner or Assistant Commissioner to assign to her a portion not exceeding 25 per cent of the emoluments attached to the office for her maintenance during her life or until her remarriage. Provided that orders under sub-sections 5 and 6 assigning an allowance shall be liable to be revised at the discretion of the Deputy Commissioner or Assistant Commissioner.

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.

[(7)] *(9)* When a vacancy occurs in the office of patel, shanbhog, nirganti, toti, or talari of an alienated village, the [proprietor] *holder* of such village shall fill up the vacancy in accordance with the [provisions of the following sub-sections:—] *principles contained in section 8, subject to the confirmation of the Deputy Commissioner or Assistant Commissioner.*

If the appointment be not made by the holder of the village within a reasonable time, it shall be competent to the Deputy Commissioner or Assistant Commissioner to make such appointment.

General qualifications requisite in all cases.

[(1) No person shall be eligible for appointment who—]

[(*a*) is not of the male sex;]

[(*b*) has not attained the age of majority;]

[(*c*) is not physically and mentally capable of discharging the duties of the office.]

Rule of devolution of succession.

[(2) The succession shall be regulated by the ordinary provisions of the Hindu Law: provided that it shall devolve on a single heir, and that, where there are more persons than one who would, under the ordinary provisions of the said law,

be entitled to succeed to the last holder of the office, the preference shall, subject to the provisions of this section, lie with the eldest member of the eldest branch of such persons.]

In certain cases person other than direct heir may be appointed.

[(3) Where the next heir is not qualified under sub-section (1), the proprietor shall appoint the person next in order of succession according to seniority of age in the senior branch who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1)].

Procedure to be adopted where heir is a minor.

[(4) When the person who would otherwise be entitled to succeed to an office is a minor, the proprietor shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office, until the person registered as heir is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as heir under this sub-section dies, or if, on attaining majority, he proves to be disqualified under clause (*c*) of sub-section (1), the proprietor shall fill up the vacancy as provided in sub-sections (2) and (3).]

Succession in the case of offices other than patel, shanbhog, etc.

[8.] *10.* The succession to village offices in unalienated and alienated villages other than those of patel, shanbhog, nirganti, toti and talari, shall devolve in accordance with the law or custom applicable thereto [at the date on which this Regulation comes into force; or,] *and* in the absence of any such law or custom, in accordance with the provisions of [sub-section (2) of section 6 and sub-section (2) of section 7 so far as applicable.] *Sections 8 and 9 respectively.*

Suits for offices, for recovery of emoluments and for registry as heir.

[9.] *11.* (1) Any person may sue before the Deputy Commissioner *or Assistant Commissioner* for any village office *in an alienated or unalienated village* or for recovery of the emoluments of any such office, on the ground that he is entitled under [sub-section (2) or (3) of] sections [6] *8*, [or sub-section (2) or (3) of section] [7] *9* or [section] [8] *10*, of this Regulation, as the case may be, to hold such office and enjoy such emoluments; or being a minor, may sue before the Deputy Commissioner *or Assistant Commissioner* to be registered as [heir] *successor* of the last holder of any such office.

Provided as follows:—

No suit for declaratory decree.

(i) No suit shall be entertained for a mere declaratory decree.

Procedure in case of dispute as to nature of emoluments.

(ii) When one of the facts in issue in a suit is whether the emoluments of the office consist of land or of an assignment of revenue payable in respect of land, the Deputy Commissioner *or Assistant Commissioner* shall decide the claim on the assumption that only the [said] assignment *of revenue* constitutes the emoluments; but such decision shall not bar the right of the claimant to institute a suit in a Civil Court for recovery of the land itself.

Rejection of plaint when claimant is ineligible for appointment.

(2) If, at any time before the completion of the trial of a suit preferred under this section [for any office or for the recovery of the emoluments of any office,] it appears to the Deputy Commissioner *or Assistant Commissioner* that the claimant is not eligible for appointment [under] *on any of the grounds referred to in* sub-section (1) of section [6] *8* [or sub-section (1) of section 7] of this Regulation, [as the case may be,], he shall pass an order rejecting the plaint.

Limitation of time within which suits may be brought.

[10. (1) No suit preferred before a Deputy Commissioner under the last preceding section shall be entertained which is not preferred within three years from the date of the cause of action arising, whether such date be before or after the commencement of this Regulation.]

[Provided that, in the case of a person who, by reason of minority, was disqualified for holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.]

Limitation in case of minority.

[(2) No application for the execution of a decree or order passed under this Regulation shall be entertained, if made after the expiration of one year from the date of such decree or order.]

Limitation of time within which execution of decree or order may be applied for.

[(3) Decrees or orders passed previous to the commencement of this Regulation in regard to claims to village offices or the emoluments annexed thereto, may be executed under the provisions of this Regulation; provided that no application for the execution of any such decree or order shall be entertained if made either after the expiration of three years from the date of such decree or order or after the expiration of one year from the commencement of this Regulation.]

Execution of decrees and orders passed previous to commencement of this Regulation.

[(4) In cases in which the decree or order sought to be executed was appealed against, the periods of limitation prescribed in sub-sections (2) and (3) shall commence from the termination of the appeal.]

Limitation when appeal preferred.

[11.] *12.* The [District] Deputy Commissioner may transfer to his own file any suit on the file of any Assistant Commissioner [in charge of a division in the district,] or transfer any suit from [the file of one such] *his own file or that of an* Assistant Commissioner to that of another [or to the file of an] Assistant Commissioner [not in charge of a division], for disposal.

Power of [District] Deputy Commissioner in regard to transfers of suits.

[12. (1) The trial of suits under this Regulation shall be regulated by rules made by Government under section 21 and by the following provisions:—]

Procedure to be observed in trying suits.

[(i) A date shall be fixed for the hearing of the suit and the same shall be notified to the parties, who shall be entitled to be heard in person or by agent;]

Date of hearing to be fixed and parties to be heard.

[(ii) The parties shall be entitled to produce witnesses and to demand that any person whose evidence they require shall be summoned as a witness or that any person shall be summoned to produce a document, and the officer trying the suit shall comply with such demand, unless, for reasons to be recorded, he considers it unnecessary to do so;]

Witnesses may be produced or summoned.

[(iii) The officer trying the suit shall record in his own hand a memorandum containing the material averments of the parties, the material portions of the evidence, his decision and the reasons therefor.]

Record of proceedings.

[(2) Every person to whom a summons is issued under this section shall be legally bound to obey the same.]

Obligation to obey summons.

13. The procedure applicable to suits filed under this Regulation shall be the same as that prescribed for formal enquiries in the Land Revenue Code, Regulation IV of 1888, subject to such rules as may be framed under section 23.

Procedure to be observed in trying suits.

[13.] *14.* Decrees and orders passed in suits under this Regulation may provide for payment of costs according to such scale and subject to such rules as may be prescribed by Government under section [21] *23*, and shall be executed in accordance with rules to be made under the said section *and the corresponding provisions of the Land Revenue Code.*

Decrees may provide for costs and shall be executed according to rules made by Government.

[15. All suits brought and appeals made previous to the commencement of this Regulation shall, after the commencement thereof, be heard and disposed of as if they had been preferred under this Regulation.]

Disposal of suits and appeals pending at commencement of Regulation.

[16.] *15.* No Civil Court shall have authority to take into consideration or decide any claim to succeed to, or to the possession of, any village office, or any question as to the rate or amount of the emoluments of any village office, or except as provided in proviso (ii) to sub-section (1) of section [9,] *11* any claim to recover the emóluments of any such office.

Jurisdiction of Civil Courts barred.

[Provided that, if, in any suit instituted under this Regulation, the defendant has pleaded before the Deputy Commissioner that a Revenue Court has no jurisdiction to entertain the suit, on the ground that no emoluments, as defined in this Regulation, appertain to the office in respect of which the suit is brought, and if, on appeal preferred from the decree in such suit, the appellate authority has decided adversely to such plea, the defendant may, within six months from the date of the appellate decree, institute a suit in a Civil Court to set aside such appellate decree on the said ground and on that ground only.]

Proviso.

[17.] *16.* (1) From every *decree or* order passed *under this Regulation* [by a Deputy Commissioner] *by an Assistant Commissioner*, [under section 4 or 5, and from every decree or order passed by a Deputy Commissioner in a suit preferred under section 9,] an appeal shall lie, [within one month,] to the [District] Deputy Commissioner, [or, if the said order or] *and from every* decree *or order* [was] passed by [the District] *a* Deputy Commissioner, an appeal shall lie, [within three months,] to the [Chief Controlling Revenue authority] *Revenue Commissioner*. The decision, on appeal, of the [District] Deputy Commissioner or the [Chief Controlling Revenue authority, as the case may be,] *Revenue Commissioner*, shall be final.

Appeal against [order or] *decree or order* of *Assistant Commissioner and* Deputy Commissioner.

Provided that, in respect of the offices of patel and shanbhog, a second appeal shall lie, [within three months,] to the [Chief Controlling] Revenue [authority,] *Commissioner* against the decision on appeal of the [District] Deputy Commissioner in suits preferred under section [9] *11* and in cases of dismissal of a village officer under section [5] *7*.

Second appeal in certain cases.

Explanation.— An order passed by the Deputy Commissioner or Assistant Commissioner, under Section 9, shall be deemed to be an appealable order.

(2) From every order passed by an Amildar or Deputy Amildar under sub-section (2) of section [5] *7* and from every order passed by a [proprietor] *holder* under sub-section (3) of section [5,] *7* an appeal shall lie [within one month] to the Deputy Commissioner *or Assistant Commissioner*, whose decision shall be final.

Appeal against order of Amildar or Deputy Amildar or [proprietor] *holder*.

[18.] *17.* If the officer to whom an appeal is presented under this Regulation [in the capacity of District Deputy Commissioner or Deputy Commissioner,] happens to be the officer who in another capacity, passed the decision which is appealed against he shall report the fact to the [Chief Controlling] Revenue [authority] *Commissiner* or to the [District] Deputy Commissioner, as the case may be, and the appeal shall be disposed of by the [Chief Controlling authority] *Revenue Commissioner* or [District] Deputy Commissioner, and the order passed on appeal shall be final.

Disposal of appeal by officer who passed original order.

18. [14] (1) If, before or [during] *on* the hearing of a suit under this Regulation or of *an* appeal against a decree or order passed in a suit under this Regulation, *in which the decree is final*, or if, in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may affect the merits, arises, [and] *on which* the officer trying the suit or appeal or executing the decree entertains reasonable doubt [on such question,] [he] *the officer* may, either of his own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained and refer such statement *with his own opinion on the point* for the decision of the [Chief Controlling] Revenue [authority] *Commissioner* and shall stay further proceedings until the said decision is communicated to him.

In certain cases Deputy Commissioner may refer question of law to the [Chief Controlling] Revenue [authority.] *Commissioner.*

(2) If the officer making the reference to the [Chief Controlling] Revenue [authority] *Commissioner* is not the [District] Deputy Commissioner, the reference shall be made through the [District] Deputy Commissioner.

(3) The [Chief Controlling] Revenue [authority] *Commissioner* shall, if any of the parties so request, hear him or his *pleader or* agent and shall decide the point referred and transmit a copy of [its] *his* judgment to the officer by whom the reference was made, and the said officer shall, on receipt thereof, proceed to dispose of the case in conformity with the decision of the [Chief Controlling] Revenue [authority,] *Commissioner*, and the correctness of the decision of the [Chief Controlling] Revenue [authority] *Commissioner* shall not be contested in any appeal made under this Regulation.

Procedure to be followed in case of such reference.

Decision of [Chief Controlling authority] *Revenue Commissioner* not to be contested.

19. The Revenue Commissioner in cases in which no appeal lies to him, or the Government may call for the record of any case if the officer by whom the case was decided appears to have exercised a jurisdiction not vested in him by law or to have failed to exercise a jurisdiction so rested or to have acted in the exercise of the jurisdiction illegally or with material irregularity, and may pass such order in the case as the Revenue Commissioner or the Government thinks fit.

Power to call for records.

20. Any person considering himself aggrieved—

Application for review of judgment.

(a) by a decree or order from which an appeal is hereby allowed, but from which no appeal has been preferred;

(b) by a decree or order from which no appeal is hereby allowed;

and who by the discovery of new and important matter or evidence which, after the exercise of due deligence, was not within his knowledge, or could not be produced by him at the time when the decree was passed, or order made or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him,

may apply for a review of judgment to the officer who passed the decree or made the order or to the officer, if any, to whom the business of the former officer has been transferred.

21. Subject to the provisions contained in section 22, every suit instituted, appeal presented, and application made, after the period of limitation prescribed therefor by the schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence.

Dismissal of suits, etc., instituted, etc., after the period of limitation.

Provided that a suit for registering a minor as a successor to a village office may be brought at any time during the minority of the claimant and provided further that

in the case of a person who by reason of minority is disqualified from holding office, the right to sue for such office, or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.

Suits the cause of action for which accrued before the commencement of this Regulation.

Notwithstanding any thing herein contained, any suit the cause of action for which accrued prior to the commencement of this Regulation may be brought within three years next after the commencement of this Regulation, unless where the period prescribed for such suit by the law of limitation applicable to it hitherto, shall have expired before the completion of the said three years.

[19.] *22.* The provisions of sections 5 and 12 of the Indian Limitation Act, 1877, so far as they relate to suits, appeals and applications shall, *mutatis mutandis*, apply to suits, appeals or applications for the execution of decrees or orders, instituted, preferred or made under this Regulation.

Certain sections of the Limitation Act apply.

[20. The Government may declare that the powers of punishing village officers which are vested in the Deputy Commissioner by this Regulation shall be exercised in any specified local area by the Superintendent or Assistant Superintendent of Police in respect of all, or any of, the village watchmen or Police officers in that local area. From every order fining, suspending, dismissing or removing a village watchman or Police officer passed by a Superintendent or Assistant Superintendent of Police by virtue of a declaration made under this section, an appeal shall lie, within one month, to the District Deputy Commissioner, whose decision shall be final.]

Power of Government to place village watchmen under Police authorities.

[21.] *23.* (1) The Government may, by notification in the official Gazette, make rules, not inconsistent with this Regulation, in regard to the following [matters] :—

Government may make rules on certain subjects.

(i) the division, grouping and amalgamation of villages ;

(ii) the holding of enquiries and *other matters coming* under sections [4] *6* and [5] *7*, and the hearing of appeals under section [17] *16* ;

(iii) [the educational qualifications, if any, required of the holders of village offices ;] *matters falling under sections 8 and 9* ;

(iv) the action to be taken in respect of any alienation of emoluments contrary to the provisions of section 5 ;

[(iv)] (*v*) the procedure to be followed in disposing of *applications*, suits and appeals [from decrees or orders passed in suits] and the registers to be maintained in connection therewith ;

[(v)] (*vi*) the execution of decrees and orders [passed in suits] and the taxation of costs ;

[(vi)] (*vii*) the emoluments to be assigned to the holders of village offices, and the method of assessment and payment thereof ;

[(vii)] (*viii*) the duties of holders of village offices, and the descriptions and forms of the accounts and registers to be kept by them ;

[(viii)] (*ix*) the custody, production and transfer of the accounts and other records kept by holders of village offices ;

[(ix)] (*x*) any other matters calculated to enhance the efficiency of the village service, or connected with the carrying out of the purposes of this Regulation.

(2) Until rules are made by Government in respect of any of the matters referred to in the preceding sub-section, the rules, if any, in force with regard thereto [immediately previous to the commencement of] *at the time of the passing*

Until such rules are made, existing rules to be in force.

of this Regulation shall, so far as they are consistent with this Regulation, be deemed [to be in operation and] to have been made under the preceding sub-section.

SCHEDULE.

Description.	*Period of limitation.*	*Time from which period begins.*
1. *Suit for the recovery of a village office or of the emoluments of any such office.*	*Three years....*	*When the plaintiff is entitled to the possession of the office or the recovery of the emoluments or the date of the order which would become final, if no such suit be brought.*
2. *Appeal to the Deputy Commissioner or Assistant Commissioner.*	*Thirty days....*	*The date of the decree or order appealed against.*
3. *Appeal to the Revenue Commissioner*	*Ninety days....*	*Do do*
4. *Application for execution of decree or order.*	*One year ....*	*(1) The date of decree or order.* *(2) [Where there has been appeal] the date of the final decree or order of the appellate court.* *(3) [Where there has been a review of judgment] the date of the decision passed on review.* *(4) [Where there has been a revision of the decree or order] the date of the decree or order passed on revision.* *(5) The date of the last application for execution made in accordance with this Regulation.*
5. *Application for review of decree or order.*	*Ninety days....*	*The date of the decree or order sought to be reviewed.*
6. *Applications not otherwise herein provided for.*	*Do ....*	*When the right to apply accrues.*